G. R. S. IX-5]

Previous references.

Ms 22-13(1-5)

File No. 200-16

1916-17

(Courts)

Serial Nos. 1 to 8

Later references.

Ms 185-17(1 to 3)
" 233-18(1-3)
" 47-[illegible](1-12)
" 172-24 to 61-5
" 100-37-(1-2)
" " -" (3-4)

GENERAL AND REVENUE SECRETARIAT.

Ms 294-55-1-5J

Two18 CASES

Serial Nos. 1 to 8

Part B for May 1917

SUBJECT.

Introduction of the Scheme of trial by Jury in Sessions Cases in Bangalore and Mysore.

1) The Registrar Chief court No J 3994 dy 9-5-1917 Approving of the rules framed by the Chief Court under Section 276 and 554 of the Cr Pro Code in Regard to the working of the Jury System.

2) To the Compiler Mysore Gazette No J 3996 dy 9-5-1917 Notifies the rules.

3) To the Compiler Mysore Gazette No J 3997 dy 9-5-1917 Notifies the exemption of certain persons from liability to serve as Jurors.

Mr Rahman Khan
21.6.1917

W D 88—GPB—50,000—24-7-16

G. R. S. 11] 1916.

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

File No. 200-16

FILE HEADING.

Introduction of the Scheme of trial by Jury in Sessions Cases in Bangalore and Mysore

From

The Registrar. Ch. Ct

No. 39.	Dated 30 Nov / 11 Dec 1916	Received 12/13 Dec 1916

Diary No. 12488	Enclos. 2	Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

As required in G.O of 17 May 16 forwards three drafts (1) bringing the Scheme into force (2) re rules to be framed by the Ch. Ct & (3) re rules to be issued by Govt; also forwards notes of the opinion of the Judges & a precis of the opinions of officers & bodies consulted; States that the Scheme may be brought into force from 1st July 1917 & that it is not clear if the Scheme is to be introduced into the Bangalore & Mysore Dts or Divisions and suggests the desirability of abolishing Circuit Sessions.

NOTES AND ORDERS.

Subs for orders. The original replies of officers & bodies who were consulted are said to have been forwarded. These are not read & if necessary have to be called for.

2) Recently it was decided that the circuit System of Sessions trials requires no change.

3) Please call for the papers. The G.O about trial by jury directs that the System should be tried only at Bangalore & Mysore.

EB 8/

NOTES—First Sheet.

1548

ND 1233—GPB—60,000—1-12-16—S.

G. R. S. III-2]

General and Revenue Secretariat.

Ch File No. 200 of 1916.

(2)

Serial No.	
	4) Draft Subs. 9/1/17 5) Issue & Us submits Comments 9.1
2	To The Registrar, Chief Court no D 2489 10th. Jan: 1917 Requests that the replies of the judicial officers and bodies who were consulted in the matter may be forwarded. Replies ordered 10/1/17
3	From The same Officer. no D. Dis 591 12th. Jan: 1917 Forwards the replies in original of the judicial officers and bodies who were consulted in the matter of the introduction of the Scheme. Subs 17/1/17
X Flag A	6) Government in their order No J 455-6 X Ch. dt 22-13-5 dt 17-5-1916 directed the introduction of the scheme of trial by jury in Bangalore and Mysore as a tentative measure for two years, and requested the Chief Court to Submit detailed rules for bringing the Scheme into Operation. They have accordingly X Submitted detailed proposals in the matter after consulting the Sessions Judges in the matter. The various Law Associations, also appear to have been consulted by the Sessions Judges in all the details before Submitting them
Paper under disposal	

NOTE—Contn. sheet.

Serial No.

opinions to the Chief Court. Govt have then before them the well considered proposals of a number of representative bodies on some of the details of the Scheme.

7) Incidentally the Judges of the Chief Court recommend again the abolition of the Circuit System of Sessions but as Govt have recently issued orders that the existing System requires no change, no further action on this point seems necessary.

Paragraph 5 of the P. U. D. Flag 'O'

8) As regards the detailed rules for bringing the scheme of trial by jury into operation, the proposals of the Chief Court deal with the following points:- the offences to be tried by the jury, the number of jurors, area of Selection, exemptions, qualifications, and payment of jurors.

9) First, as regards the offences to be tried by jury, the list recommended is that which is in force in Madras with slight modifications. This was practically the same which was adopted by the Chief Court when they had original criminal jurisdiction. The learned Chief Judge has assigned very cogent reasons for ~~the~~ trial of all these offences with the aid of jury, and the recommendations may be approved by Government.

Flag G

Flag H. (Pages 8-11)

10) With regard to the number of jurors, the recommendation of the Sessions Judges, which is that it should be Seven. In British India, the number

NOTE—Contn. sheet.

Serial No.

Flag H. (page 12)

is only 5, except in the High Court where the number is 9. There may be no objection to have 7 but the difficulty is to get the necessary supply. The learned Chief Judge, however, recommends that the number may be fixed at 7, to be brought down if necessary. His recommendation may, if approved, be adopted.

10) Under S. 319 of the Criminal Procedure Code all persons between the age of 21 & 60 are liable to serve as jurors at any trial within the District, unless for [illegible] smaller area in this behalf. In British Indian Provinces various areas have been fixed according to the nature of the Country, viz. in Bengal Bombay, no smaller area than District has been prescribed. The ~~District of Bangalore~~ Chief Judge recommends that for the present no smaller area than the District of Bangalore Mysore needs be prescribed. In view of the fact that the number of jurors has been fixed at 7, the restriction in area may restrict the number of persons to choose from, and this recommendation may also be approved.

Flag I

11) The list of exemptions proposed is that based on that in force in Madras. The only point on which orders of Govt

GPB—25,000—2-11-14

Serial No.

are necessary, is that relating to the Palace officials. If approved, the Private Secretary to His Highness or the House Secretary will be requested to give a list of employees that may have to be exempted from sitting as jurors.

13) As regards the qualifications of the jurors, the Code does not specifically prescribe any, and leaves the matter entirely to the decision of the Sessions Judge or Court, but Courts in British India have prescribed various qualifications regarding property, character or education. In Bombay, for instance, no one is included in the jury list who does not possess a knowledge of the English language. The suggestion of the Chief Court that the question may be left to the discretion of the authorities referred to above, may be adopted for the present, if approved.

14) Lastly the recommendation is made for payment of jurors at 1 Rupee a day and also travelling expenses. The learned Chief Judge doubts the necessity for paying anything more than travelling expenses, though he does no reason for non-payment. In British India, "reasonable expenses" are said to have been made sometimes. I beg to submit in this connection that the Criminal Procedure Code does not provide for payment of

NOTE—Contn. sheet.

GPB—25,000—2-11-14

G. R. S. 12]

General and Revenue Secretariat. | C.S. File No. 200 of 1916

Serial No.

the jurors or assessors. Since they do not appear to be entitled to any ~~expense~~, or subsistence allowance. Further if payment is made to the jurors, it will be necessary, as pointed out by the Chief Judge, to pay also the assessors. The cost will be prohibitive.

15) [No allowance is paid to jurors or assessors in the Provinces, or Madras. The Madras Rule is there stated: Jurors and Assessors should not be paid allowances of any kind except in cases in which at the request of the Sessions Judge they have to travel more than 5 miles from the Court house to visit the scene of an alleged offence when they may be paid actual out of pocket expenses." (Chaudri Book p. 65). It is stated that the rule in England is also the same.].

16) If once Sanction is accorded for payment of jurors, then it will be very difficult to stop the payment. As the whole scheme is merely tentative one, it may perhaps be better to have no payment until it is found absolutely necessary to sanction the same.

17) If these views are approved, the drafts proposed by the Chief Court will be suitably modified and submitted for approval

ES
2011.

First Member) 15/2. The Hon'ble Mr.

1553
25.1.17

24.1.17
1.30 p.m.
Asst

NOTE—Contn. sheet.

GPB—25,000—2-11-14

1548

WD 1233—GPB—60,000—1-12-16—S.

G. R. S. III-2

General and Revenue Secretariat. | Ch. File No. 200 of 1916

Serial No.

Re addition in the number of Exempts from Palace officials.

Reg para 6 the number of the Jurors as fixed in the notification.

A Chief requests, the permission of the Ch. Secy be adopted in above

25/1/17 Secy

Secy 25/1/17

(1) Draft to P.S. to H.H. for info.

(2) For favour of approval.

29/1/17

29.1

P.S. to Member

1644/30.1 (3) Draft approved by the first member

30.1.17 Secy 31/1

4 To the Private Secretary to H. H. the Maharaja (5) Secy resubmit. 31/1

No 2771 3rd Feb. 1917

Requests that a list of persons on the Palace establishment who should be exempted from liability to serve as jurors may be forwarded.

(6) Issued as ordered in para 22

7/2/17

(7) Refer recommendations of the Chief Court regarding the payment of

NOTE—Contn. sheet.

WD 1233—GPB—60,000—1-12-16—S.

G. R. S. III-2

General and Revenue Secretariat.

Cts File No. 200 of 1916-17

18

Serial No.

jurors is not accepted above, this becomes a schedule case. Submitted for orders

Secy)
Fin Member
& Dewan

1627
12.2

2) The file may be circulated & comments of the members of the Council with Dewan's permission

4649
13.2.17

12/2

2) I agree
19.2.17.

C.S once
19/2

(For disposal at a meeting)

No. C. 149 &17

24: 2: 1917.

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

SUBJECT.

(Clauses viii and xiv of the Schedule)

Detailed Rules for bringing the scheme of trial by jury into operation in sessions cases in Bangalore and Mysore.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

D. M. Narayana Rao 25/2

23rd February 191 7.

Secretary to Government.

Extraordinary Member of Council.

First Member of Council. Opinion recorded.

200/24-2-17 **Second Member of Council.** WP 26/2 Over 26/2

WD 2012—GPB—1 000—9-2-16

WD 1233—GPB—60,000—1-12-16—S.

G. R. S. III-2

General and Revenue Secretariat. | File No. 200 of 1916.

Serial No.

From The Private Secy to H. H.

No 3424 4th. Dec: 1916

Invites reference to notification no 929 dated 4.7.08 and requests that a similar order exempting all officials employed on Palace duty from liability to serve as Jurors may be passed.

27) Gen Secy's marginal note on the above
"Let me see this" Initd Dmn. (9/3)

Subj.. The main file is before the Council. The notifn referred to is put up and a clause on similar lines will be added to the Draft recd from the Ch-Ct regarding exemptions.

DR 14/3(17)

Sect'y / First Member

2285 / 14/3.

28) Ken Secy 14/3

Dmn 14/3

DR 14/3

Dmn Secy 13/3

Ch-Ct 20-0-16 [illegible] Hay E

NOTE—Contn. sheet.

Extract from the Proceedings of the ....414th.... Meeting of the Council of His Highness the Maharaja, held at ....Bangalore.... on the ....31st March.... 19 17.

---

11. Subject.- (Clause viii of the schedule.)

Detailed rules for bringing the scheme of trial by Jury into operation in sessions cases in Bangalore and Mysore.

OPINION OF THE COUNCIL.

29/7 The draft notification, rules and order proposed by the Chief Court may be approved with the following modifications:-

(i) Trial by Jury should be confined only to the districts of Bangalore and Mysore as intended.

(ii) All employees on the Palace Establishment may be exempted from liability to serve as jurors.

(iii) The paragraph in the draft order relating to expenses of jurors may be omitted.

"EXTRACT"

Secretary to Government,
General Department.

WD—156—GPB—1,000—19-7-16.

Serial No.

30) To the Assistant Secretary, Dr. III, for submitting the file to the First Member of Council with a draft Final Note.

Draw
3/4
30) Supdt. Draw
3/4

32) ~~Draft~~ D.S.N. submitted
3/4/17) [illegible]

33) In favour of ~~Orders~~ approval
Cs
3/4

First Member)

34) Fair Final Note signed by the First Member is submitted together with a D.S.N.
Bos
4/4/17 Dewan)

Draw Note
5/4
Cs
5/4

25-87
4/4

5564
5.4.17

B
4/6/17

Final Note by the First Member of Council.

(13

Subject:—

Detailed rules for bringing into operation the scheme of Trial by jury in Sessions cases in Bangalore and Mysore.

(Paper under disposal) These papers relate to detailed proposals made by the Chief Court for bringing into operation the scheme of trial by jury in Sessions cases in Bangalore and Mysore which was sanctioned in Government proceedings No. J4556/cts.22-13-5 dated 17th May 1916.

2. The proposals were considered in Council who are of opinion that the draft notification, rules and order submitted by the Chief Court may be approved with the following modifications:-

(1) Trial by jury should be confined only to the districts of Bangalore and Mysore as intended.

(2) All the employees on the Palace Establishment may be exempted from liability to serve as jurors.

(3) The paragraph in the draft order relating to expenses of jurors may be omitted.

4 Sept. 1917

Submitted to His Highness.

ಶ್ರೀ I submit herewith a "Final Note" by the First Member of Council on the proposals for bringing into operation the scheme of trial by Jury in Sessions cases in Bangalore and Mysore for His Highness' gracious approval.

M. Visvesvaraya-

22nd Apr. 1917.

C.149(Mtg)/.

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Proposals for bringing the scheme of trial by Jury into operation in Sessions cases in Bangalore and Mysore.

1060.
Wdb ov No. 286 dated 3·5·1917.

Order.

38) ~~KRW~~
1/5/17

4/1075

KRW
30-5-17.

403
15.5.17

D. O. No. 24438

Fern Hill,

Nilgiris,

3rd May 1917.

My dear Sir,

In returning herewith the file relating to the introduction of a system of trial by jury in sessions cases in Bangalore and Mysore forwarded with your Submission Note No.6337 dated 22nd April 1917, I am directed to say that, while approving of the draft Notification, rules and order as modified by the Council, His Highness would like to point out that the officers on his personal staff should also be brought under the list of persons exempted from liability to serve as jurors under section 320 (1) of the Code of Criminal Procedure.

Yours sincerely,

R. Lamb

Sir M. Visvesvaraya, K.C.I.E.,

Dewan of Mysore,

Bangalore.

WD 1283—GPB—60,000—1-12-16—S.

G. R. S. III-2

General and Revenue Secretariat.

Courts File No. 200 of 1916-17

Serial No.

Draft Rs is submitted for approval
may kindly the draft rules also be issued?

KB
9.5.

Hon. Members: Agreed - Yes.

Lally agree 9/5

9/11

Issue at once
KB
9.5

To the Registrar Beh. Court
no D 3994 9th May

Approving of the rules framed by the Beh. Court under Sections 296 and 554 of the Cr. Pro. Code in regard to the working of the Jury System.

To the Compiler Imperial Gazette
no D 3996 9-5-1917

Notifies the rules.

To the Compiler Imperial Gazette
no D 3997 9-5-1917

Notifies the exemption of certain persons from liability as jurors.

NOTE—Contn. sheet.

R. Dis. No. 39 to 2

CHIEF COURT OF MYSORE,

BANGALORE,

Dated 30th November 1916.

11 December 16

11 DEC 1916

DIARY No. J. 1248

From

N. T. Gopaliengar Esq., B.A., LL.B.,
Registrar of the
Chief Court of Mysore.

200-16

To

D. M. Narasinga Rao Esq., B.A., B.L.
Secretary to the Government of Mysore,
General Department,
Bangalore.

Sir,

Adverting to the concluding paragraph of Government proceedings No. J.4556/Cts. 22--13--5 dated the 17th of May 1916 ordering the introduction of the scheme of trial by Jury in Bangalore and Mysore for the present as a tentative measure for two years, I am directed to forward herewith three drafts (1) a notification bringing the system into force, (2) rules to be framed by the Chief Court under the code and (3) rules to be issued by the Government principally relating to exemption from liability to serve on juries and payment of jurors.

2 - A copy of a note containing the opinions of the Judges on the subject and shewing the reasons for their proposals and a precis of the opinions of the judicial officers and bodies who were consulted in the matter, as also their replies in original, are forwarded for the information of Government.

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3. As for the date from which the scheme may conveniently be brought into force, I am to state that, since the Deputy Commissioners have to be ready with their list of Jurors, the 1st of July 1917 would, in the opinion of the Judges, be a convenient date and this has been accordingly entered in the draft notification.

4. I am to observe that the Government proceedings does not make it quite clear whether it is the intention of the Government to introduce the system into the districts of Bangalore and Mysore or into the Sessions Divisions of Bangalore and Mysore. The draft notification has been drawn up in the view that the districts alone are intended; if that is not so the names of the other districts in the Sessions Divisions must be added.

5. I am to point out that with the introduction of the jury system it becomes desirable to abolish the circuit sessions, because, if cases are to be tried by jury, it will be necessary to have fixed periodical sessions to avoid the inconvenience of summoning numbers of persons at odd times, and to enable jurors to know when their services are likely to be required. If the circuit system is abolished in Bangalore, the Sessions Judge can hold a monthly session in Bangalore for the whole division. If the circuit sessions are retained, he will, for the Bangalore District, have to have a session which can hardly be held more than once in three months, and a session in each of the other two districts at a similar interval.

In

6. In the Mysore Division, sessions could be held once in two months in each Court, but with the opening of the railway from Mysore to Hassan the necessity of circuit sessions in that division will be greatly diminished.

7. The draft submitted provides for the exemption of a number of public officers who may find it difficult to serve as jurors without prejudice to their duties. The draft closely follows the exemptions allowed in the Madras Presidency.

8. It has been suggested that Palace officials may be exempted, but the Judges are not in a position to state how far that suggestion is necessary in the interests of His Highness' service or would meet with his wishes. A clause may be added to the draft if the Government so desire; it will be necessary to enumerate the exempted officers.

9. The 3rd draft provides for payment of jurors. At present assessors are not paid and if Jurors are paid it may be necessary to pay assessors also. A daily allowance of one rupee is provided, it being thought that all should be treated alike and that while that sum may not cover the expenses of some of the Jurors, those will be more or less well to do persons who can afford to maintain themselves and it may be sufficient for others: and it is not considered desirable to provide anything more than is absolutely necessary. Section 326 of the Code prescribes the summoning of at least double the number of jurors likely to be required, and the expense to Government

may

may be not inconsiderable, though the number of cases tried by Sessions Courts under the proposed sections of the Penal Code is not large in the Mysore State at present.

10. The system will under section 9 (3) of the Code necessarily apply to trials before assistant Sessions Judges but Sessions Judges may be instructed to retain ordinarily on their own files all jury cases for the present.

I have the honor to be,

Sir,

Your most obedient servant,

R. Gopalan

REGISTRAR.

TSK

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N O T E.

THE CHIEF JUDGE.

First as regards offences to be tried by jury there are some curious differences of opinion among those consulted, and similar differences are found in the rules in force in different parts of British India. It seems that parts of Bengal have the most extensive list of cases all cases being tried by jury which are committed to Courts of Session under Chapter VIII (riots, unlawful assemblies and affrays), Chapter XI (false evidence, fabrication of evidence and other offences against public justice including escapes from custody, personation of public servants, destruction of evidence etc:), Chapter XVI (offences affecting the body including murders, kidnappings, selling of minors, hurt, rapes and unnatural offences), Chapter XVII (offences against property including thefts, robbery, extortion, dacoity, misappropriation, breach of trust, mischief, mischief by fire is the kind which usually comes before Courts of Session -, trespasses, house breakings etc.), Chapter XVIII (forgery of all sorts and offences committed with trade and property marks) and Chapter XX, offences relating to marriage (adultery, enticing away wives, bigamy etc.)

Madras has perhaps the least extensive list comprising only sections 379, 380, 382 (why 381 is omitted I do not know), 392, 393, 394, 395 (396 is omitted probably as involving murder), 397, 398, 399, 400, 401, 402 (misappropriation and criminal breach of trust are omitted perhaps as involving complicated questions of law at times) 411, 412, 414 (habitual dealing in stolen property, 413 is omitted perhaps as being rare and generally involving a large amount of evidence of isolated transactions),

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414 (cheating, fraudulent disposition of property and mischief are omitted also the grave cases of house trespass dealt with in sections 449 and 450 and simple criminal trespass 447, which of course rarely comes before a court of session by itself), 451, 452, 453, 454, 455, 456, 457, 458, 459 (460 is omitted perhaps as involving possible cases of causing death) 461, (462 omitted perhaps as a form of breach of trust).

This is I understand practically the list of cases which was formerly triable on the original side of the Chief Court in Mysore.

In Bombay the jury system is confined to the more serious cases, involving the punishment of death, transportation for life or imprisonment for 10 years, but there seems no very good reason for this unless it be that there is a fear of over burdening jurors with work.

In the United Provinces the list is between that of Madras and Bengal including kidnappings, rapes, thefts and robberies (but not extortions), dacoities omitting section 396, misappropriation (but not breaches of trust), receiving stolen property, mischief, trespasses and housebreakings, and offences relating to marriage, thus excluding riots, false evidence, murder and hurts and forgeries.

The proposals made here are abstracted in the Registrar's note:

The Sessions Judge of Bangalore suggests all cases exclusively triable by the Sessions Courts, but this seems to be somewhat illogical: why not all cases committed to the courts of sessions as in the High

Courts

Courts in British India? He would reserve certain classes of cases for special juries but that might require an amendment of section 269 (2) and 276 of the Criminal Procedure Code which leave the discretion to the Judge.

It may be convenient to arrange the proposals under the different classes of cases.

Chapter XVI. Those persons and bodies in favour of including Chapter XVI (murders, causing abortion, infanticides, hurts, rapes etc.) are:--

The Sessions Judge of Bangalore: the Sessions Judge of Mysore: the Public Prosecutor, Bangalore, and the Law Associations of Tumkur and Kolar. Of them Tumkur only would include the whole chapter; the Sessions Judge of Bangalore, those cases which are exclusively triable by the court of sessions, and the others those which are punishable with death, transportation for life or imprisonment for 10 years.

Those who would not include them are:--

The Sessions Judge of Shimoga, the District Magistrates of Tumkur and Kolar and the Law Associations Bangalore and Mysore.

Chapter VI. In favour of including chapter VI of the Code, (Offences against the State) a chapter which is not included in any of the lists in British India, but would be included to some extent under offences punishable with death and transportation for life under some of the Bombay notifications.

The

The Sessions Judge of Bangalore, and the Law Association, Tumkur, expressly and the Sessions Judge of Mysore, the Public Prosecutor, Bangalore and the Kolar Law Association probably as being included in cases punishable with death or transportation for life under some sections.

Chapter VII. Military offences.

No one refers to chapter VII, but sections 131 and 132 would be included by the Sessions Judges of Bangalore and Mysore, the Kolar Law Association and the Public Prosecutor of Bangalore.

Chapter VIII. In favour of including Chapter VIII, (rioting etc.) as in parts of Bengal, but not elsewhere in British India, are:--

None of those consulted except the Law Association, Bangalore, as regards sections 148 and 152 why selected I do not know: none of the offences is exclusively triable by a Court of Session, or punishable with transportation for life or imprisonment for 10 years.

Chapter IX. The Mysore Law Association would include ~~induce~~ bribery cases (chapter IX) under sections 161, 162, 163, 164 and 167, but no one else suggests it, and it is not done anywhere in British India.

No.

Chapter X. No one suggests the inclusion of chapter X (contempts and obstruction to public servants,) and none of the offences is of a gravity likely to bring the offender before the Court of Session.

Chapter XI. In favour of Chapter XI, false evidence etc. (as in Bengal) are the Sessions Judge of Bangalore (who would try them by special jury in all cases) and the Law Associations of Bangalore and Tumkur. (Sections 194 and 195 would be included under the proposals of the Sessions Judge of Mysore, the Kolar Law Association, and the Public Prosecutor of Bangalore).

Chapter XII. Offences under chapter XII (coin and stamps) are not triable by jury in British India except in Bombay in cases where the punishment is transportation for life or imprisonment for 10 years.

Their inclusion here is suggested by the Sessions Judge of Bangalore (by implication so far as regards sections 231, 232, 234, 235, 236, 238, 244, 245, 255, 256, 257 and 258 which are exclusively triable by the Court of Session), the Sessions Judge of Mysore, the Kolar Law Association and the Public Prosecutor of Bangalore by implication so far as regards sections 232, 235, 238, 240, 251, 255 as being punishable with transportation for life or imprisonment for 10 years.

N. B. This illustrates a defect in this proposal.

Section

(27)

Section 255, counterfeiting a stamp is punishable with imprisonment for 10 years and would be tried by jury but sections 256, 257 and 258 which are similar offences, 258 being the sale of counterfeit stamps and are exclusively triable by the court of session would be tried with assessors because they are punishable with imprisonment of seven years only.

The Law Associations, Bangalore and Tumkur, would include them all.

Chapters XIII, XIV and XV.

No one suggests the inclusion of chapters XIII, XIV and XV which relate to weights and measures, nuisances and religion. The offences are mostly petty and do not come before Courts of Session. The proposal of the Sesions Judge of Bangalore would include section 281 exhibiting a false light, mark, or buoy to mislead a navigator, but unless the Caveri is made navigable that won't affect Mysore.

Chapter XVII.

Chapter XVII is proposed by all and is the chapter to which all Provinces in British India apply the system, with the exception in Madras and the United Provinces, of some portions such as extortion, mischief cheating and frauds, misappropriation and criminal breach of trust.

Its inclusion is proposed by everyone either expressly or by implication so far as the graver offence are concerned: the Sessions Judge of Shimoga accepts the Madras list of sections, and the Mysore Law Association's list is very nearly the same. The others go for the whole Chapter.

---- Chapter

'24

Chapter XVIII. Chapter XVIII (forgery etc.) as in Bengal but not in Madras or the United Provinces is proposed for inclusion by

the Sessions Judge of Bangalore (special juries only): the Sessions Judge of Mysore, the Kolar Law Association, Kolar, and the Public Prosecutor of Bangalore who accept the Bombay system would by implication include sections 472, 474 (2nd part), 475, 477 and 477A, 489A, 489B and 489D. The Law Association of Tumkur would include the whole chapter.

The Mysore Law Association excludes the whole chapter, its principle apparently being that only the less serious or less complicated cases should be tried by juries.

Chapter XIX. No one suggests the inclusion of Chapter XIX (Breach of contract of service.)

Chapter XX. Chapter XX (marriage) is included in Bengal and is proposed here by the Sessions Judge of Bangalore the District Magistrate of Tumkur, the Mysore Law Association, and by implication the Sessions Judge of Mysore, the Public Prosecutor of Bangalore and the Law Association, Kolar, so far as regards sections 493 and 495 again illustrating what seems to me a defect in the method of fixing the nature of the trial with reference to the punishment only: a bigamist (494) would be tried by assessors, but if he or she concealed the former marriage from the new spouse, then by jurors.

The

Chapter XXI. The inclusion of chapter XXI (defamation) is proposed only by the Mysore Law Association: it is not included anywhere in British India and cases are not often tried by Courts of Session.

Chapter XXII. Chapter XXII (Insult and intimidation) is not included in British India and is suggested here only by the Mysore Law Association as regards section 506.

I do not myself think that juries in Mysore will prove less intelligent, or less conscientious, or more corruptible, than juries elsewhere in India, but it has to be remembered that it is very much easier to introduce the system of jury trials than to abolish it: my recollection is that somewhere in the earlier nineties, 1892 or 1893 the Government of Bengal wanted to change the classification of cases triable by jury striking out some of those now so triable, but the opposition to the proposal was too much for them. I would begin tentatively, adopting the Madras list of sections to start with, with some expansion. I do not see why we should not include section 381 as well as extortions sections 384 - 389: and possibly misappropriation and breaches of trust, cheatings, and other frauds, but these do not often come before Courts of Session and are sometimes rather complicated and approach the civil dispute so perhaps it is not desirable to include them. I think we might include mischief: the only case which comes before the Courts of Session much is arson (sections 435 - 436) and I do not

not see any reason why juries should not deal with that. Offences under sections 437 - 439 will not happen in our landlocked State.

I do not quite appreciate the reasons for omitting the offences punishable under sections 449, 450 and 460, unless it be that they involve or may involve, questions of the causing of death, but they are not punishable with death and may I think be added. In fact I would include all from 447 - 462 though the former will only come before a Sessions Court as a subsidiary count in a charge.

I think perhaps we may also add Chapter XX. The cases before Courts of Sessions are generally bigamy only and sometimes the law is complicated, but the Sessions Judge can of course withdraw from the jury any case where no offence is committed under the law of marriage of the person concerned, and there is not often much complication about the facts. However cases are not common and perhaps we need not add this chapter.

I am not in favour of including chapter VI and Chapter VII. I do not know if cases under that chapter are tried by jury in Bombay (outside the High Court) but they are not so tried anywhere else in British India and we had better test our juries awhile before entrusting such cases to them. They are of rare occurrence anyway.

I am not sure that juries are as satisfactory as assessors in any case, and I am pretty sure they are not in cases like riots where there are often counter cases and numerous accused. I would not include

include Chapter VIII.

There is not much support for the inclusion of Chapters IX and X which deal with cases which rarely come before courts of sessions and they need not be included.

Chapter XI has some support but I am not inclined to include it at present.

Coin and stamps cases (Chapter XII) are rare here, I think, and I would not include the chapter. Such cases are not tried by jury anywhere in British India except in Bombay where they are expressly notified in the Poona notification, and implicdly as regards graver cases in the others except Ahmedabad, where apparently only murders and other offences punishable with death are tried by juries.

Chapters XIII, XIV and XV relate to petty cases for the most part and no one suggests their inclusion.

Chapter XVI is supported by a good many of those consulted, but I am not in favour of its inclusion. Assessors seem to snatch at very light defects in evidence to acquit persons charged with homicide and I should like to see how our juries deal with other cases before referring to these matters like homicide and rape, infanticide and abandonment of children.

Chapter XVIII has some support, but the nature of the forgery cases with which we have to deal is generally such as to require very close attention to a number of small circumstances: ordinarily there

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are no eye witnesses to a forgery, and the case has to be made out by an accumulation of circumstances, and perhaps we had better not at present entrust juries with these cases.

Defamation cases rarely come before Courts of Session, and the explanation of the law is perhaps rather difficult in some cases. There seems no need to include Chapter XXI; or Chapter XXII.

I would therefore take the Madras list, adding section 381, extortion mischief and some sections of trespasses, and possibly Chapter XX.

Special juries. I think we shall do no harm by having special jury lists, provided Sessions Judges do not try to make all cases into special jury cases. Under section 325 special jurors cannot object to serve on common juries, and a leavening of the special jury element in a common jury would be an advantage in ordinary cases. What one would like to do would be in summoning the jurors for a session, to summon a proportion from each list and mix them in the juries, but that would hardly be legal, without an amendment of section 326 (2).

We may recommend the preparation of special jury lists in Bangalore and Mysore Divisions.

I am not quite sure whether under section 269 (2) the Government has the power to prescribe that certain classes of cases shall be tried by special jurors: the section is curiously worded: section 276 seems to contemplate that power but section 269 suggests that the notification is to be for the District not for the

the particular offence. In the British India Code there is a provision for the trial by special juries of murder cases in the High Courts, (section 276 proviso 2 (a)), but not in courts of session. Perhaps we may leave it to Session Judges.

Number of Jurors. As to the number of the jury every one would prefer seven, to five and if we can be assured of getting a sufficient number of men we may recommend that this shall be the number. I do not know what number we had when the Chief Court tried cases on the original side: the High Courts have nine (section 274 of the British Indian Code): the mufassal courts in Madras, Bombay and Bengal have five. Seven is a better number than five, in my opinion, if we can get the men and I would recommend that seven be tried at first to be reduced if the service is found too burdensome.

Selection by lot. There are under the Code two choosings of jurors by lot (1) of those to be summoned for a session, and (2) of those to form a particular jury.

The rule for choosing by lot in case (2) which we have power to make under 276, may be the ordinary one of putting all the names into a box and drawing till we have enough. It will have to be formulated in more precise language, on the model suggested in the letter of the Bangalore Law Association. A similar rule may be framed for case (1) under section 554(c). The number required will be first estimated and then those who have served within six months will be excluded before the others are put in the box, and

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the drawing will then go on till the required number is secured.

Area of selection.

The jurors have to be residents of the District wherein the Sessions Court is situated (section 319) and I do not know that any smaller area need be fixed either for Mysore or Bangalore. If circuit sessions are abolished those two districts alone will have to furnish juries for all cases: for the present I think we need not recommend any smaller areas than those prescribed by the Code, but I defer to those who have a more accurate geographical knowledge of the country.

Perhaps 50 miles might be a maximum, whether by rail or by road plus rail, and 15 miles by road, or 20. In Madras the prescribed limits are 50 miles by rail plus 10 by road or water, twenty miles when there is no rail, and forty by water in Kistna and Godaveri where there are navigable canals. I have no information here of what is done elsewhere in British India, but I fancy districts are smaller in Bombay and Bengal than in Madras and possibly the Local Government have not found it necessary to prescribe smaller areas.

Exemptions Sec: 320.

As to exemptions the only suggestions are to exempt Palace officials, and the employees of the Kolar Gold Fields mining companies. If Kolar sessions are abolished the mining area being outside the Bangalore District will not be drawn upon. If Kolar Sessions are maintained and trial by jury is introduced in that district

district we shall want the Gold Fields area to fill the jury list: and we may exempt only certain classes of employees, to be settled with the District Magistrate and Sessions Judge and the companies. Those employed in working machinery would probably have to be exempted, but those doing office work need not. There is a long list of exempted persons in Madras, including many persons in the Public Works Department and Registration Departments, as well as Railway officers, and Stamp vendors, and Treasury officers, and I think we may follow that list closely.

As regards the Palace establishment, I do not suppose that His Highness would wish to exempt those doing office work but I have no objection: the matter can be left to the Government to decide.

Selection.

As regards selection and qualifications, to which some of those consulted advert, section 319 lays down certain qualifications, and section 321 (1) leaves it to the discretion, under limitations, of the Sessions Judge and the Deputy Commissioner to frame the list according to their judgment. In my recollection the ordinary claims for exemption were on account of deafness or some physical disability, but I do not remember whether we had any definite rule to guide us in framing the list: so long as a man is within the age limits, and is not a mere labourer, he ought to be able to serve. Perhaps it would be well to have some property qualification, but it should not be high, and some literary qualification, e. g. ability to read and write; but

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the Code seems to make the opinion of the Sessions Judge and the Deputy Commissioner decisive as to qualifications and we cannot do more than leave the matter to them so far as I can see. They will have to bear in mind the necessity for making as large a panel as possible, so as not to lay too great a burden on the selected men, and at the same time to require such qualifications as may afford some guarantee against verdicts so corrupt or so stupid as to bring the system into contempt.

I do not know if any attempt has been made to define qualifications in British India.

Some suggestions have been made on other points.

Segregation. (1). As to keeping juries together, the Code provides in section 300 for keeping them segregated from others after the judge's charge is delivered: it is not the custom so far as I know to keep juries in India together during the trial, and I do not think we need recommend the introduction of a practise of that kind.

Payment. (2) As to payment of jurors it may be desirable to pay them actual travelling expenses to and from the Court when they live outside municipal limits, but I doubt if it is necessary to pay them anything more. But they will incur expenses no doubt and there is no particular reason that I know of why those expenses should not be paid by the State: it is all very well to foster the civic spirit, but why try it in two districts only? The difficulty is perhaps to fix a reasonable amount: what will just meet one

man's

man's expenses, may tempt another to stay on as long as he can in head quarters, and actual expenses are hard to verify: the suggested 3 rupees a day seems more than is necessary, but the Government will have greater facilities for fixing the amount than we can. In Madras my recollection is that payment of actual travelling expenses was sanctioned a few years ago; in Bombay "reasonable expenses" interpreted as being what a Government servant might charge as travelling allowance under the Civil Service Regulations. The latter is perhaps preferable.

Language. (3) It may not be necessary to require of jurors a knowledge of Kannada. Nearly all will have it: but those who have not may be rather a nuisance in a trial, and in consulting with their fellow jurors may have some difficulties: perhaps it would be as well to require it. But under section 321 (1) it would have to be left to the Sessions Judge and the Deputy Commissioner to decide. There would be no objection to shewing in the list as suggested by the Mysore Sessions Judge the languages known to each juror, but it does not seem important.

Miscellaneous. (4) The suggestion that the date, time and place of trial must be gazetted is not feasible if it means that this is to be done in the case of each trial. But a Gazette notice stating the date on which sessions will commence may be published. The summons sent to each juror will shew him when he is to attend.

But great inconveniences may be caused if trials are held as now at odd times: if a jury is to be summoned whenever a case crops up for trial there

there will be great trouble. Dates periodically fixed will have to be the rule, and to this end the abolition of circuit sessions will contribute.

(5) The publication of leaflets shewing the jury their duties does not impress me as of great value. The judge's business is to tell them what they are to do.

(6) The suggestion that an account of the case with the verdict and the names of the jurors should be 'reported officially' whatever that may mean, by way of check on perverse verdicts, seems to smell of libel; we cannot know what juror is really responsible for the verdict even if all are apparently unanimous: as a method of terrorizing juries into giving the verdict which they think the Judge wants, it may have merits, though not many; but it is hardly commendable on that account.

As the Government have decided to introduce the system I do not propose to say anything about the policy of the decision, but I could wish that I could be surer that its introduction meets with the approval of laymen as distinguished from lawyers in the State.

Mr. Justice. K. S. CHANDRASEKHARA AIYAR.

I have made one or two marginal remarks. I fully concur with the Chief Judge's views and have nothing to add.

Mr.

Mr. Justice. T. PARAMASIVA IYER.

I agree.

R E G I S T R A R.

TSK

P R E C I S.

The Government in their proceedings No. J. 4556/Cts. 22-13-5 dated 17th May last ordered that the scheme of trial by jury be introduced in Bangalore and Mysore as a tentative measure for two years and requested us to furnish them with detailed rules for bringing the scheme into operation with a draft notification to be issued by the Government under section 269 of the Criminal Procedure Code and also to fix a date from which the scheme may be brought into force.

As directed in the Chief Judge's note of the 23rd June 1916 the opinions of the Session Judges of the three Divisions were invited under seven headings and they are in.

The Sessions Judge of Bangalore has consulted and obtained the opinions of the District Magistrates of Kolar and Tumkur, the Public Prosecutor of the Bangalore Division and the Law Association and has given his own opinion.

Offences or classes of offences to which the system shall apply.

(a) He would try by jury all cases triable solely by court of sessions provided that offences punishable with death or transportation for life and offences triable solely by court of sessions under chapters VI, XI, XVIII and XX including attempts and abetments thereof shall be subject to trial by jury in places where special juries are available. In other places such cases should be excluded from the system. He would therefore restrict the jury system only to Bangalore and Mysore.

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The Sessions Judge of Mysore (Mr.Subbanna) who has obtained the opinion of the local Bar Association does not agree with that body in several respects and suggests that with some modifications all offences punishable with death or transportation for life or imprisonment for ten years and upwards may be made triable by jury as in some districts of the Bombay Presidency. He refers to the Ahamadabad rule ~~quoted~~ quoted in Sohoni's Criminal Procedure Code, page 365, fifth Edition of 1901.

Disagreeing with the Bar Association the Sessions Judge says that a special jury list is very necessary in order to enable a better class of men (knowing English) being selected to serve as jurors in specially important cases.

The Sessions Judge of Shimoga would restrict the jury system to the trial of offences falling under sections 379, 380, 382, 392, 395, 397, 402, 411, 412, 414, 451, 459 and 461. He considers a special jury list necessary for selection at the discretion of the Sessions Judge in complicated cases and in protracted trials where men of higher qualifications may be required to form a panel.

The number of jurors required to form a jury.

(b) The Sessions Judge of Bangalore considers seven persons as the more desirable number and five as a more practicable number for special and ordinary juries respectively.

The Sessions Judge of Mysore, Mr. Subbanna says that to avoid difficulties in getting the required

required number of men, five may be fixed as the limit.

Mr. Nagappa would fix the number between 7 and 9 and would not diminish it lest it might impair the right and lessen the securify of the system.

The method to be adopted for choosing a jury by lot.

(c) The Sessions Judge of Bangalore would choose the jurymen by lot as is done in the North Western Provinces which was also the system in vogue in this State when the jury system was in force.

The other Sessions Judges are also at one with Mr. Plumer and consider that cards containing the names of the gentlemen summoned to serve on the jury should be put into a box and well shaken and the required number selected by drawing out the cards one after the other in open court.

The area of selection. (Section 319, Cr. P. Code).

(d) Mr. Plumer suggests that the jury lists for the Districts of Bangalore, Kolar and Tumkur, should comprise all male residents possessing necessary qualifications for an ordinary juror resident in places not exceeding 50 miles by rail or 10 miles by road from the District Head Quarters.

Special jury lists should comprise only the residents of the Bangalore City within the municipal limits.

Mr.

Mr. Subbanna fixes the same limit of 50 miles for journey by rail but gives two distances, 25 and 10 miles, for journey by road according to the facilities of the road journey in the Mysore and Hassan Districts.

Mr. Nagappa appears to have misunderstood this point. He does not fix the area but says that the Sessions Judge and the Deputy Commissioner should use their discretion in selecting men of independent condition in life of judgment and of experience who may be fit to serve as jurors.

Any persons or class of persons to be exempted under clause (1) of section 320.

(e) The Sessions Judge of Bangalore considers section 320 sufficiently exhaustive regarding exemptions but would add to the list "persons employed in any of the mining companies, Kolar Gold Fields."

Mr. Subbanna would exempt officials of the Palace establishment and of the Civil and Criminal Courts.

The above recommendations appear to be good.

Mr. Nagappa considers that exemptions laid down by the Code are sufficient and further exemptions would render it difficult to procure the desired number of jurors.

The Officer who is to join the Sessions Judge in the preparation of the lists.

(f) All the Sessions Judges are agreed about the Deputy Commissioner joining them in the preparation of the jury lists.

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As regards the rules to guide the selection, Mr. Plumer considers them necessary as the present method of selecting assessors is very unsatisfactory and those selected are mostly unfit for want of sufficient education, intelligence or independence.

Mr. Subbanna would leave it to the officers' discretion to make proper selections.

Under (d) Mr. Nagappa has mentioned the class of persons who should be selected as jurors. He considers that in the cities of Bangalore and Mysore persons who are eligible to be elected Municipal councillors and whose names are usually published in the Gazette may be selected. He would add registered graduates and undergraduates to form a special jury.

Independent merchants may also be enlisted in the Kolar, Tumkur and Hassan Districts. Persons paying assessment of Rs.200 and over may be selected (perhaps with or without educational qualifications) in addition to intelligent and educated persons.

He would restrict the selection to Mysoreans or domiciled persons. He does not give his reasons for this.

Any other relevant points.

(g) Mr. Plumer mentions with approval the suggestion of the Public Prosecutor that rules should be framed regarding the keeping together

together of a jury if a case occupies more than a day.

The jurors should be paid actual travelling expenses by rail or carriage hire in the Bangalore City and a fee of Rs.3. or Rs.5 per day for an ordinary or special juror respectively.

Mr. Nagappa also thinks that special rules are necessary for locking up of the jury and of providing for their dinners in cases of protracted trials and he considers payment to special jurors necessary to attract competent and skilled men.

The Sessions Judge of Mysore thinks that the jury lists should show against each person the language or languages understood by him and that a knowledge of kanarese is a desideratum.

Mr. Nagappa thinks that the date, time and place of trial should be published in the Gazette both in English and Kanarese.

He would also publish leaflets pointing out to the jury their functions and those of the Judge in order to give them a training. It is very doubtful if this experiment is desirable as those who do not realise their duties cannot be considered competent to serve as jurors at all.

After circulation the rules which will

have

have to be framed should be decided. Such rules and a notification may then be forwarded to the Government. The date from which the system should come into force may be fixed as the 1st of July next as it is likely that the Government will take time to consider the rules suggested and to sanction them.

K. Gopalan

REGISTRAR.

TSK

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DRAFT II.

RULES TO BE ISSUED BY THE CHIEF COURT.

Under the powers conferred by Sections 276 and 554 of the Code of Criminal Procedure and with the sanction of the Government of Mysore, the Chief Court is pleased to make the following rules.

1. A list of jurors shall be prepared, published and revised in the manner laid down in Sections 321, 322, 323, 324, and 325 of the Code of Criminal Procedure in the month of January in each year or as soon thereafter as may be convenient.

2. As early as practicable and not less than eight days before the date fixed for the commencement of the next ensuing session, the jurors to be summoned for service at the session shall be chosen in the following manner:--

Cards or papers as nearly as possible of the same size and shape shall be provided in number equal to the number of jurors on the list, and the name of one juror shall be written on each card or paper.

The cards or papers bearing the names of those jurors who have served at any session within six months of the commencement of that for which jurors are being chosen shall be withdrawn and the remainder shall be placed in a box or bag and as many of them as the Judge shall deem necessary having regard to the provisions of section 326 (1) of the Code of Criminal Procedure shall

be

be drawn out one after another in open Court, and the jurors whose names are so drawn shall be summoned to attend the session.

3. If after the names have all been so drawn the number of jurors required for the session has not been obtained, the names of jurors who have served within six months of the commencement of the session shall be placed in the box or bag and drawn as above directed so far as may be necessary to complete the required number.

4. When it appears to the Judge that among the cases committed for trial or likely to be committed for trial to the ensuing session there are any in which the trial ought to be by a special jury, and when the number of jurors on the special jury list whose names have been drawn under rule 2, is insufficient to provide the necessary jury or juries having regard to the provisions of section 326 (1) the cards or papers on which are written the names of all the special jurors whose names were not so drawn shall be placed in the bag or box and shall be drawn out in the manner above directed till a sufficient number has been obtained.

5. The letter prescribed by Section 326 (1) shall request the District Magistrate to summon the jurors so drawn to attend on the day on which the session commences or a sufficient number on that day and the remainder on a subsequent day or days fixed by the Judge.

6. At the commencement of the session the

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names of the Jurors summoned to attend for that date excluding those (if any) who may be excused under section 330 (1) shall be put into a box or bag in open Court, and as many as may be found necessary, having regard to the provisions of Section 277 (1), shall be drawn out one after another in open court and in the presence of the accused, to sit as jurors for the trial of the case coming on first.

7. The rest of the jurors summoned shall be asked to attend at such time as the Court may specify and the requisite number shall be selected from amongst them at the beginning of each case, or day, in the manner above specified to serve as jurors in the case or cases standing for trial.

8. The Court acting under Section 330 (1) of the Code may excuse the attendance of any person whose name has been drawn, either before or after he is summoned, and direct another name to be drawn.

9. It shall not be necessary to select a new jury for the trial of each case but care must be taken to have a sufficient number of jurors present at the close of each case to enable a jury for the next case to be selected without delay, in the event of the exercise by the accused or public prosecutor of the right of objection given by Section 277 of the Code.

Dues 30/3/17

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[R. S. 26]

Cls File No. 200-16
Serial No. 7

Diary No. of letter replied to .....

No. J 2489

General and Revenue Secretariat
( )
, *the* 191 .

To

The Registrar Cr Ct

Sir.

Date of issue 10th Jany 1917

Signed by Jno. G. Sullivan Jr

Adverting to your letter No. R Dis 39 of 30th Nov / 11 Dec 1916 regarding the introduction of the scheme of trial by jury in Sessions cases I am directed to request that the replies of the judicial officers & bodies who were consulted in the matter may kindly be forwarded to this office at an early date.

I have &c
Eg
G. J.
for Chief Secy

9/1/17

SUBJECT.

D. Dis. No. 591 Ra 8

Urgent.

Chief Court of Mysore,
Bangalore.
Dated 12th January 1917.

From

The Registrar of the
Chief Court of Mysore,
Bangalore.

GEN. & REV. SECRETARIAT
III
JUDICIAL
16 JAN 1917

To

The Secretary to the
Government of Mysore,
General Department.

S i r,

Adverting to your letter No. J. 2489/Cts.200-16-6 dated the 10th Instant, I am directed to forward herewith the replies in original of the judicial officers and bodies who were consulted in the matter of the introduction of the scheme of trial by Jury in sessions cases.

I have the honour to be,
Sir,
Your most obedient servant,

For Registrar.

1916/17. C.No. 285

1916-17.

5-7

From Encl to Sl.3/

R. B. Plumer Esq., Bar-at-Law,
Sessions Judge, Bangalore Division,
B a n g a l o r e.

To

N. T. Gopaliengar Esq., B.A., LL.B.,
Registrar of the Chief Court of Mysore,
Bangalore.

Dated 7 } August 916
Despatched 7 }

General No. 637/80 Enclosure No. Eight.

Sir,

I have the honor to forward herewith my opinion on the points raised in your letter No. 5900-2/c.536 dated 23/26 June 1916, with reference to the introduction of a system of trial by Jury in the Bangalore and Mysore Divisions; before forming my opinion I consulted the District Magistrates Bangalore, Tumkur and Kolar - and the Bar Associations of those Districts and also the Public Prosecutor. Their opinions except that of the District Magistrate Bangalore are appended.

The District Magistrate Bangalore felt unable to favour me with his opinion in the absence of a direct re - quisition to the District Magistrates from the Chief Court.

Point A.

The offences or classes of offences to which the system shall apply and whether special Jury lists are neces-

sary.

necessary.

On this point the District Magistrate Tumkur (Mr. K. Chandy) Appendix A. suggests that the classes of offences should be limited to those comprised in Chapters XVI, XVII & XX. Indian Penal Code viz., offences affecting the Human Body sections, 299--377 Indian Penal Code: offences against property sections 378--461 Indian Penal Code: and offences relating to marriage sections 493--498 Indian Penal Code.

His reason for this limitation is that the system should be tried cautiously for some time to come.

He does not consider Special Juries necessary for Tumkur District.

The District Magistrate Kolar (Mr. P. F. Bowring) Appendix B. suggests that the Jury System may apply to all offences against property and to other offences not punishable with death or transportation for life. He considers that in Bangalore and Mysore Cities Special Jury lists are necessary.

The Public Prosecutor (Mr. D. M. Ramachandra Rao) Appendix C. thinks that the system should be applied to all offences punishable with death or transportation for life or imprisonment for 10 years or upwards, including abetments and attempts. His view is that Assessors in his experience find more difficulty in apportioning guilt in a dacoity case than in a murder case. He does not believe that jurors will hesitate to return verdicts of guilty in murder cases.

He considers Special Jury lists desirable for selection of jurors for complicated or protracted trials.

The Law Association Bangalore Appendix D. would apply the system to sections 148 & 152 Indian Penal Code viz.

Rioting

Rioting armed with a deadly weapon and assault on a public servant when suppressing riot etc., and to Chapters XI, XII & XVII excluding section 396, Indian Penal Code and provided that offences under chapter XI(false evidence and offences against public justice sections 191-229, Indian Penal Code) shall only be triable by Special Jury.

The Law Association Tumkur Appendix E. would apply the system to all offences under Chapters VI, XI, XII,XVI,XVII & XVIII, Indian Penal Code, or under any of those chapters read with section 75, Indian Penal Code, the punishment awardable is death, transportation for life or transportation or imprisonment for 10 years or upwards, including abetments and attempts.

They do not consider Special Juries necessary.

The Law Association Kolar Appendix F. would apply the system (1) to all offences against property and (2) to all offences punishable with death or transportation for life.

They consider that Special Jury Lists may be desirable for Bangalore and Mysore Cities.

It will be seen that there is considerable diversity of opinion on the point. My own opinion is that there should be a Special Jury list for cases tried in Bangalore and Mysore Cities. That all cases triable solely by Court of Sessions should be made subject to trial by Jury provided that offences punishable with death or transportation for life and offences triable solely by Court of Sessions under Chapters VI-XI-XVIII and XX: (including attempts and abetments thereof) shall only be subject to trial by Jury in places where Special Juries are available. In other places such cases should be excluded from the system of trial of Jury.

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I do not consider a Jury composed of 5 or 7 ordinary jurors i.e., average citizens of the State will possess sufficient independence of character, or capacity to return a verdict based on an intelligent appreciation of the evidence in the case so as to permit of ~~the~~ trial by them of these more complicated and graver offences and I would therefore restrict the application of the Jury system in such cases to places where special Juries are available and that will only be in the Cities of Bangalore and Mysore—in no other places in the State can a sufficient number of men of the standing and qualifications necessary for inclusion in a Special Jury list be obtained.

Regarding Point B.(the number of a Jury).

I concur with/majority of the opinions appended that 7 is a more desirable and 5 a more practicable number.

In my opinion the best provision would be that ordinary Juries should consist of five persons and Special Juries of 7 persons. This will ensure the more desirable number in trials of the graver and more complicated cases.

Regarding Point C.(method of choosing jury section 276. Criminal Procedure Code).

I concur with the opinion of the Bangalore Law Association which is the same as that of the Law Association Tumkur and of the Public Prosecutor that the method formerly in ~~view~~ vogue in Mysore may be followed (vide Law Association Bangalore Appendix D).

Regarding Point D. (area of Selection).

The District Magistrate Kolar suggests a separate jury list for each District all jurors liable to serve if residing 50 miles or less by rail and 10 miles or less by road

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The majority of others suggest merely that the jury lists be separate for each District but the Law Association Kolar adds a proviso that a juror is only liable to serve if residing within a radius of 50 miles from the Court House, while the Law Association Tumkur would limit selection to residents in District Head Quarters.

In My opinion for the Districts of Bangalore, Kolar and Tumkur ordinary jury lists should comprise all male residents possessing the necessary qualifications for the position of an ordinary juror resident in places not exceeding 50 miles by rail (or 10 miles by road if no railway communication) from District Head Quarters.

Special jury lists for Bangalore City should comprise only residents of Bangalore City. (i.e.,residents within the limits of the Bangalore City Municipality). It is no doubt a fact that a certain restricted number of persons possessing sufficient qualifications for a special juror can be found in various other of the larger towns in the Bangalore District or in the towns of Kolar, Tumkur and some other of the larger towns in those two Districts but in my opinion it would operate as a great hardship on them to have to travel on to Bangalore for selection on a special jury or to sit as special juror while their expenses would considerably swell the cost of every special jury trial in which any of them were summoned.

Regarding Point E. (Persons to be exempted).

All opinions are to the effect that Section 320, Criminal Procedure Code is sufficiently exhaustive and that no other exemptions are necessary. I concur generally with these opinions but I would add to clause J. "And persons employed in any of the Mining Companies Kolar Gold Fields." To summon such persons to serve on juries would usually cause inconvenience and might seriously dislocate business and I therefore concur with the view of the Mining Board (Appendix G) that all employees of of the Mining Companies, Kolar Gold Fields, should be exempted.

Regarding Point F(1).

All opinions are to the effect that the Deputy Commissioner of each District is the proper person to join with the Sessions Judge in the preparation of the annual Jury - Lists. I concur with these opinions.

Regarding Point F(2).

I think rules are required to guide the selecting - Officers in the preparation of both Jury and Special Jury - Lists. I would especially lay stress on the point that many persons included in the present Assessor lists have been personally found quite unfit to sit on a Jury being neither sufficiently educated not sufficiently intelligent nor sufficiently independent.

In my experience most opinions of assessors are based rather on what the assessors hear outside the Court than on the evidence and if reliable juries are to be obtained the Jury lists must be confined to men of sufficient strength of character and conscientiousness to ensure that they will not allow or enter into discussion of the case outside the Court Hall or Jury Chamber. Then again for formation of the - special Jury lists selecting Officers should I think be advised to include only such persons who have a thoroughly good English and Vernacular education men of good social or Commercial status and of approved and well recognized probity and especially retired Civil Officers(unless otherwise ineligible or liable to objection).

In this connection I would invite consideration to the suggestion of the Public Prosecutor that preliminary lists of men capable of serving as Jurors may be directed to be drawn up by the ~~District~~ Deputy Commissioner of each District which should contain their property qualifications educational attainments - Knowledge of English and their character. From these lists the lists to be drawn up under the

Code

Code could then be compiled.

The Public Prosecutor also suggests and I think the suggestion merits consideration that rules should be framed in regard to the keeping together of a Jury if a case, as it usually does, occupies more than a day. Also regarding the payment of Jurors I ventures to suggest that every Juror - should be entitled to his actual travelling expenses by rail (or to actual carriage hire in Bangalore City) and to a fee of so much a day for each day of trial perhaps Rs.3/- for an ordinary and Rs.5/- for a Special Juror a day would not be considered excessive. Suggestions (3), (4) and (5) of the Public Prosecutor also seem to merit some consideration but I am without experience to venture an opinion on those points - myself.

I have the honour to be,

Sir,

Your most obedient servant,

R B Kumar

Sessions Judge,

Bangalore division.

No. 574/82

Office of the Sessions Judge,
Mysore Division.
Mysore, dated 9th August 1916.

From

B. Subbanna, Esq., B.A.,B.L.,
Sessions Judge, M Y S O R E.

To

N. T. Gopaliengar, Esq., B.A.,LL.B:,
Registrar of theChief Court of Mysore,
M Y S O R E.

Sir,

With reference to your No. 5900-2/C.536, dated 23/26th June 1916, calling for opinion on the following points in the matter of the introduction of the trial of offences by the aid of Jurors, I have the honour to state as follows:-

(a) Offence or class of offences to be tried.-

In the Madras Presidency only certain offences under Chapter XVII, I.P.C. affecting property are triable by the aid of Jurors. The Chief Court of Mysore while exercising Original criminal jurisdiction were trying, it would appear, by the aid of Jurors, the offences mentioned above, i.e., offences affecting property only. Chapter XVI, I.P.C. dealing with offences affecting the Human body, are not tried by Jury anywhere in British India, except in Bengal and in some parts of the Bombay Presidency. But it appears to me that we may adopt the Ahmedabad rule (vide Sohoni's Criminal Procedure Code, Note 5, page 365, Fifth Edition of 1901) with some modification and I would suggest that all offences punishable with death or transportation for life or imprison-

ment

imprisonment for 10 years and upwards may be made triable by Jury as in the districts of Surat, Tana, Belgaum and Karachi City. I wish to add that there appears to have been some fear that if Jury system were extended to murder cases there was a danger of Indian Juries being averse to give a verdict which would induce the punishment of death. But this view is, in my opinion, not sound.

The Bar Association of this place is of opinion that only the less serious offences should be tried by Jury on the ground that the people have no experience yet in such matters and it proposes the following sections to be made triable by Jury.-

Sections 161, 162, 163, 164, 167, 312 to 318, 327 to 333, 363 to 373, 376, 379, 380, 382, 392, 395, 397 to 402, 411, 412, 414, 451 to 459, 461, 493 to 498, 500 to 502 & 506.

But I entirely disagree with them. The principle to serve which the Jury system is wanted is to provide a safe guard against Judges taking wrong views on facts and if we admit this principle it is with the more serious offences that the danger is great and it is there that the remedy must be provided. If we make all the simple cases triable by Jury it will mean a great hardship on the public and a great waste of time. It will be noticed that the Bar Association wants offences triable summarily and also very petty offences to be tried by Jury. There appears to be no purpose that is to be served by making those offences triable by Jury. The law provides sufficient safe guard in cases where the Jury may be perverse and if we have no confidence in the peop e we have only to drop the proposal altogether rather than introduce the system for such simple cases.

Special

Special Jury lists.-

A list of special Jurors seems very necessary for use when better educated class of men have to be selected. It would be very advantageous if the services of English knowing men are secured in specially important cases. The Bar Association says that it is not necessary to have a special Jury list, but I do not agree with them.

(b) Number of Jurors.-

The Code requires 3 to 9 men. It is very difficult to get more than 5 men for a single case. This difficulty is felt even in the case of assessors. We may therefore adopt the Madras rule for the present. The Bar Association says that we may have 7.

(c) The method of choosing by lot.-

The number of Jurors required may be drawn out of a box containing the names of all persons summoned to act as such after shaking the box well. This should be done in open court and in the presence of the accused.

(d) The area of selection.-

Though it may be possible to find sufficient number of men within the city limits of Mysore for the Mysore District, Hassan town alone may not give as sufficient a number of men to be brought on the Jury list. In the latter case the smaller area contemplated in the Code may be fixed at a radius of 50 miles all round if there is railway communication, of 25 miles if there is only public road communication and a distance of 10 to 12 miles if there be no public road. This proposal may be adopted for the Mysore District also if the required number cannot be made up from the City alone.

The

The Bar Association says that the Jurors of a Taluk should not be summoned for trying cases from that Taluk. This rule appears to be good. The Association says that different districts should have different Jury lists and I think this follows as a matter of course.

(e) Persons to be exempted - Cl.(2), Sec. 320, C.P.C.-

The officials of the Palace establishment and of the Civil and Criminal Courts may be exempted.

(f) The Deputy Commissioner should join in selecting Jurors as in the case of assessors and they will exercise their discretion and make proper selections.

(g) The Jury list should show against each person, the language or languages understood by him.-

The Bar Association says that all Jurors must know Kannarese and I am for this restriction.

I have the honour to be,

Sir,

Your most obedient servant,

B Subbamma

SESSIONS JUDGE.

Ins.

1916/17. C.No

Rec'd 9.16

No. 660 Encl 129

Have opinions from the others been received also Please put up a note N.Z. 11/9/16

Office of the Sessions Judge, Shimoga Division

Dated, camp, Chickmagalore the 8th September.

From,

B.Nagappa, Esquire, Barrister-at-law,

Sessions Judge, Shimoga Division.

To,

H.T.Gopalienger, Esquire, B...., LL.B.,

Registrar of the

Chief Court of Mysore,

Bangalore.

SIR,

I have the honor to forward herewith my opinion on the regarding the trial of offences or classes of offences by Jury to be brought into effect in the Bangalore and Mysore Divisions as called for in your No.5900-2/C.536 dated 23rd June 1916.

I have the honor to be,
Sir,
Your Most Obedient Servant,

SESSIONS JUDGE.

B.J.R

OPINION ON A SYSTEM OF TRIAL OF OFFENCES BY JUDGE & JURY.

I.Preparatory Remarks. Before I proceed to deal with the questions on which my opinion is asked I desire to make a few observations regarding the nature of the right graciously granted to the subjects of our Benign Government and the preparedness of the Subjects to take advantage of such a right. I deem it essential to consider these aspects, for, without the proper understanding of these, we may often fail to achieve the chief design underlying the establishment of the system under consideration. Every constitutional Government is intended to promote the general welfare of the people, that all persons have a natural right to enjoy security of life, liberty and the enjoyment of the gains of their own industry; that to give security to these things is the principle Office of the Government and if the Government does not confer these securities the basic reasons for the existence of Government disppppear and the Govvernment fails in its chief design. For every right is annexed a corrolative duty. The duty implies certain standard of capacity. When this standard is found below the mark, the right created may, instead of promoting the end in view, lead to disastrous consequences endangering the welfare of the people.

It is, therefore, the function of an Administrator and a Legislator to take note of these factors before launching out a new scheme.

(2) Nature of the right to trial by Jury. Its origin and developement. Trial by Jury is of an ancient and ~~somewhat~~ somewhat doubtful origin (3 Blackstone Comm.349). It is as now practised in England and America, the result of long process of developement, during which the nature and functions of the Jury have been materially changed no doubt to suit the requirements of the varying conditions of society.

~~The Indian Penal Code~~ The

The History reveals the fact# that the people osteemed this right very highly and carefully guarded against its infringement especially in Criminal Cases and that this was guaran-teed to them by the Magna Charta (See 4 Blackstone Comm.349; Profatt on Jury Trial sec.24)

This shows that there was a demand for it by the people who were anxious to proserve it as a heritage. The developement of this system both in England and America by extending it to the trial of all crimes where a person may be subjected to a capital or infamous punishment, and to all actions triable by common law Courts, shows unmistakably that the people have recognized the principle of individual action for the benefit of the corporate life and that they are living up to it from earliest time.

This system was introduced into America by the English Colonists who considered it a right under the English Law and has been incorporated in the form of express guarantees in all of the constitutions, both State and Federal.

The general tendency of the people, both in the West and in America is to rely on themselves and not on others in all matters affecting their welfare. The Jury Service in ~~Ital~~ Italy has so far been advanced as to necessitate the question of allowing them to participate in the determination of penalty. (See an article contributed by Alemander Stoppato, published in the Journal of Criminal Law and Criminology in March part 913)

This shows their fitness to discharge their functions satisfactorily uninfluenced by any ulterior considerations.

3.Conditions in India, Mysore. It is woeful to think that the principle of individual action for the benefit of the corporate life has not yet developed among Indians in general and among Mysoreans in particular.

The general tendency is to rely on others-- in Mysore to rely solely on Government for every-thing

everything concerning themselves whether it be in the field of Industry and Economic developement or Education-rather on themselves

I would crave indulgence for my frank expression of my humble views in the matter. I am sure these will not find favour with the enthusiasts. I entirely sympathize with the aims of the progressive party,but I dissociate with them in the procedure to be followed to reach the end in view.

It is the common experience ~~with~~ of those connected with the Criminal Administration of the country to observe the determined obstinacy of assessors in bringing in decisions of 'not guilty' in all but the clearest cases.

They may be actuated by religious motives in thus acting in opposition to the evidence,but in so far as they allow their scruples to outweigh with a just and sincere opinion upon the facts of the case,they show a regrettable lack of capacity to discharge their functions and sink below the ordinary Western standards of citizenship.

The function of the jury is to deduce the truth from the evidence adduced and express it in their verdict. Their conclusions should not rest upon ulterior considerations. It is no doubt desireable that the people should be educated to bring them up to the ordinary Western standards of citizenship. None can deny the valuable right of trial by Jury. The success of it entirely depends on those to whom it is designed. The conditions referred to above make it very difficult to frame a beneficial and suitable scheme. After a mature consideration I have,in consultaion with those whose opinion cannot be discarded,arrived at the conclusion that the system may be tried as an experimental measure limiting its scope to some of the offences mentioned below and selecting such of those who are considered fit under the circumstances to form a panel.

Opinion on questions.

a) The offences or classes of offences to which the system shall apply (section 269 of the Code of Criminal Procedure) and whether special Jury lists are necessary.

Offences against property are triable by Jury throughout British India. But in some Districts of Bengal and Bombay the system is extended to cases of all offences punishable with death, Transportation for Life or imprisonment for ten years.

Whereas in Madras Presidency except in the agency tracts of Ganjam, Godavari and Visagapatam and in Districts of Allahabad, Banaresse and Lucknow of United Provinces and Oudh offences against property are only triable by Jury. In Burma the system is not introduced except in cases of offences committed by European British Subject.

Since the conditions in Mysore are more or less similar to those prevailing in the adjacent tracts of the Madras Presidency, I am of opinion that the system may, ~~be~~ as in Madras Presidency, be extended to the following offences under I.P.C. Sections:-

379, 380, 382, 392-395, 397-402, 411, 412, 414, 451-459 and 461.

In complicated cases and in cases of protracted trials men of higher qualification may be required to form a panel. To meet such cases, special Jury list becomes necessary. It is will also be desirable to vest Sessions Judges with discretion to hold trials with special jury, if, in their opinion, the men in the common jury list are not competent to try any case.

b) <u>The number of Jurors required to form a Jury</u>.

A Jury of less than 12 is considered both in England and in America, not a Constitutional Jury, and a denial of this number in a case triable by Jury is an infringement of a constitutional right.

Diminishing the number, in my opinion, infringes the right

and lessens the security of the system. The greater the number the greater will be the value attached to the verdict of the majority. It may also provide safeguards against temptation and prevent their verdict not resting on ulterior considerations. I would, therefore, fix the number at 7 or 9. It may be ruled that the number be not less than 7 and not more than 9.

The method to be adopted for choosing a Jury Lot (Section 276 Cr P.C)

The object of this section coupled with sections 279 and 326 Cr.P.C, is to secure a fair and impartial trial by rendering it impossible any intentional selection of jurors to try a particular case.

This object can be attained by the Sessions Judge causing to be put together in one box a sufficient number of cards or pieces of paper containing the names of all persons summoned in the manner prescribed under section 326, to attend, except those that are excused by the Sessions Judge. The Sessions Judge shall, then, in open Court, draw or cause to be drawn out of the said box, one after another, as many of the cards or pieces of paper as may represent the number of Jurors required to try the case. If in drawing the Jury the names of persons are drawn who are successfully challenged, then such further number shall be drawn as may be necessary to complete the panel required for the case.

( ) The areaof selection. (Section 319 Cr.P.C.)

Section 321 provides for the selection of Jurors by the Sessions Judge and the Deputy Commissioner, and vests in them a discretion to select such of those as are fit to serve as Jurors. It is necessary to define the limits of such discretion and should allow them to choose only persons of an independent condition in life, men of Judgment and of experience.

The qualifications of a Juror.

In England a property qualification for Jurymen was required by statutues at a very early date. In India

both property, intelligence and Education are required to qualify a person to be a Juror.

In the cities of Bangalore and Mysore, I would suggest that persons who are eligible to be elected Municipal Councillors and whose names are published by Government in Mysore Gazette may be selected as Jurors.

To this list may be added the list of Registered Graduates or under Graduates in Mysore. These may form a special Jury.

Some independent merchants whose names are omitted in the gazette may be selected.

In Mysore and Bangalore Divisions there should be five lists as suggested in the question. In the Districts of Kolar, Tumkur and Tuscan persons who pay an assessment of more than 200/-Rs. a year may be selected in addition to intelligent/ Educated persons residing therein. Only Mysoreans and domiciled Mysoreans are to be selected.

e) The exemptions laid down by the Code are sufficient and further exemption would render it difficult to procure the desired number of Jurors.

f) The Officer who is to join the Sessions Judge.

The Deputy Commissioners do now join the Judge in the preparation of the list of assessors and to hear their objections. This may be continued and the rules may be framed as suggested in the answer to question (d)

g) Other relevent points.

1. Some rules have to be framed in regard to the locking up of the Jury and of providing their dinners etc. in cases of protracted and sensational trials lasting more than a day.

2. Payment to special Jurors to attract competent and skilled men.

3. Publication of the date, time and place of trial in

in the English and Kanarese portions of the Mysore Gazette.

4. As the people have to be trained to Jury Duty, it is necessary to publish in leaf-let form both in English and in Kanarese, the duties of a Judge and Jury and other cognate matters.

5. The reporting Officially or otherwise of the verdict with the names of Juror giving the verdict together with a statement of the facts of the case may be recoursed to in some cases. This procedure may act as a check on perverse verdicts being given.

B.J.R

SESSIONS JUDGE,
Shimoga Division.

Chickmagalur (Camp)
8th September 1916

Enc 5-7-16.

List of appendices sent with Letter No dated

from the Sessions Judge, Bangalore division.

Appendix.	Particulars.
A.	Letter C. No. 9 dated 12-7-16 from the District Magistrate, Tumkur.
B.	Letter No. P. dis 103 dated 19-7-16 ——— do ——— Kolar.
C.	Letter No. 7/16-17 dated 5-7-16 from the Public Prosecutor, Bangalore.
D.	Letter No 183 dated 21-7-16 from the Secretary Law Association. — do —
E.	Letter No.— Dated 13-7-16 ——— do ——— do — Tumkur.
F	Letter No.— dated 15-7-16 ——— do ——— do — Kolar.
G.	Letter dated 5-8-1916 from the Secretary, K.G.F. Mining Board Bangalore

Sessions Court,
Bangalore.
8th August 16

R. H. Hamer
Sessions Judge

Gen. 7. 56

GPB—50,000—17-9-15 15.7.16

19 16-17.

From

The District Magistrate,

Tumkur District.

To

The Sessions Judge,

Bangalore Division,

Bangalore.

Dated 12th July 1916.

Despatched

Received 15.7.16

General No.

No.

Enclosure No.

Sir,

In reply to your letter No. 4827-29 C 288 dated 30th June 1916, forwarding for opinion, copy of letter No. 5900-2 C 536 dated 23 26 June 1916, from the Registrar Chief Court, re: the introduction of Jury system in the Bangalore and Mysore Divisions, I have the honour to state as follows.

(a) The classes of offences to which this system may be made applicable may, for the present, be limited to chapter XV1, XVII and XX (16.17 & 20) Cr.P.C. I suggest this because, I think, that this system should be tried cautiously for some time to come. Special Jurors are not necessary for this District.

(b) The number of Jurors may be either 5 or 7 as may be convenient.

(c) Jurors may be chosen in the ordinary way of selecting by lot, from among the list of names, which should contain at least twice the number required as Jurors for [illegible]

Sir.

Submit along with other replies.

RH.

8.7.

M

the Sessions.

(d) It would be sufficient to fix the District as the --- minimum areaof selection.

(e) The exemption may be on the same lines as for assess--ors.

(f) The District Magistrate may as heretofore join the -- Sessions Judge in the preparation of the lists.

I have the honour to be,

S i r,

Your most obedient servant,

K. Chandra

DISTRICT MAGISTRATE,

TUMKUR DISTRICT.

M.E.R.

GPB—50,000—17-9-15 L. J. 102 - 24.7.16 Ap. B

19

From

E.F. BOWRING, Esquire,
District Magistrate
Kolar District.

To

R.B. PLUMER, Esquire, Bar-at-law
Sessions Judge,
Bangalore.

Dated 19th July 1916.

Despatched

Received 4 pm

General No. D.Dis 103

No.

Enclosure No.

Sir,

Adverting to your letter No. 4807-29/C.288 dated 30th June 1916, [illegible] ing for my opinion with refe ence to -- paras (a) to (g) of the Chi f Court -- Registrar's letter No.5900-1/C.5[illegible] 2nd idem, recording the introduction of Jury system in Bangalore and Mysore Divisions, I have the honor to state as follows :--

(a) The Jury system may apply to all offences against property and to other offences not punishable with death or transportation for life, and in the case of Bangalore and Mysore Cities, I think, special Jury lists necessary (Section 269 Criminal Procedure Code)

(b). As in Madras, the number of Jurors required to form a Jury may be fixed at five (Section 274 Criminal Procedure Code)

(c). The Jury to be chosen by ballot from among the [illegible] summoned for

...970 Criminal Procedure Code)

...e Jury lists for each district and in districts, ...ail-...communication, all persons residing within the dis... to serve, if the journey to the town where the Sessions ...from the town or village in which they reside, does not ...of 5 miles by rail and 10 miles by road (Section 319). ...ons than that specified in Section 320. Criminal ...considered necessary.

...Commissioner or a Revenue Sub Division Officer shall join ...in the preparation of Jurors' lists and no special rules ...called for to guide the selecting officers; but respecta... ...bility, education, good morals or conduct and solvency ...the principles to guide the selection of persons to

(Section 321 Criminal Procedure Code)

I have the honor to be,

Sir,

Your most obedient servant,

M Nkuraba Lyaga

for District Magistrate,
Mbarara District.

DS

Rec'd 7/7/16

From

D. M. Ramachendra Rao Esq., B.A. B.L.
Public Prosecutor& Advocate,
Bangalore City.

To

R. B. Plumer Esquire Barrister-at-Law,
Sessions Judge, Bangalore Division

Sir,

In reply to your letter No. 4830-33 / C. 289 dated the 30th of June 1916, I have the honor to state as follows:-

(a) The offences or classes of offences to which the system shall apply~~and~~etc.

Though offences against property are tried by Jury throughout British India, yet offences affecting the human body and those against public tranquillity and public justice, & those relating to documents and marriage are not tried by Jury in the Madras Presidency and the United Provinces. It is difficult to assign any reason for not extending the Jury system to these offences. The men selected as Jurors to try offences against property do possessas much intelligence to follow the evidence in a murder case and their hesitation to declare in open Court that a daring dacoit of the locality is guilty is no less than their hesitation to condemn a murderer to death. Dacoity cases are as much complicated as murder cases and I have found that assessors find more difficulty to apportion the ~~fault~~ guilt ~~of~~ each of the accused in a dacoity case. The distinction that is now made between the two classes of offences seems to be without differennce . Since there is not much crime to alarm the public in the State, there will be no fear of increase of crime owing to the Jury system being applied to all classes of offemces.

(77

For the reasons, I beg to submit that all offences punishable with death, transportation for life or imprisonment for ten years or upwards, abetment and attempt to commit, any of such offences may be tried with the aid of Jurors in the State.

The adoption of this method will not only simplify the dual system of trial by Jury and by Assessors and avoid much confusion, but will also infuse greater spirit of boldness, courage, independence of thought and confidence in the minds of the intelligent Citizens of the State, and will train them up to become one of the active limbs in the administration of justice.

The average Citizen of the State is no doubt intelligent enough to form an opinion in ordinary cases, but in complicated cases and in cases of protracted trials, men of higher qualifications may become necessary. To meet such cases, as well as emergent occasions when the requisite member of men are not forthcoming from the ordinary list or cannot be chosen, I believe a special Jury List is desirable. It will also be desirable to vest Sessions Judges with discretion to hold trials by special Juries if they think that the men in this ordinary List are not competent to try the case.

? on the evidence

(b) The number of Jurors to form a Jury.

The number of Jurors selected to form a Jury ~~or the~~ Sessions Court in all parts of British India is five. It is true that a verdict of three ~~are~~ one way and two the other way may not carry much weight and I am afraid that a verdict of four one way and and three the other will not carry any greater weight;. There is however one advantage in fixing the number at seven ie., a chance o of securing the verdict of an absolute majority of Jurors in many cases. Since there will not be want of men, seven may be selected to form a Jury, and this will serve to keep the Jury above any ~~sus~~ temptationand not open to suspicion.

I think preferable to 5

(c) The method to be adopted for choosing a Jury by lot.

The method obtaining in the mofussil in the Madras Presi[illegible]

Presidency may be adopted as it is both simple and practicable. Names of persons summoned to act as Jurors shall be written on slips of paper and these slips shall be placed in a box or bag and shaken together. The chief officer of the Court shall then draw out the slips of paper, one by one, until the requisite number of Jurors has been obtained.

(d) The area of selection;

Any smaller area than a District would not give the desired number to form a Jury. The present District area has been working satisfactorily. A separate list for each District will ofcourse have to be, drawn up. If permitted, I would favour the increase of the area of selection to a Division which has someadvantages.

(e) Any persons or cla sses of persons to be exempted

I think that the exemption the Code lays down is ample enough and any further exemption would make it difficult to obtain the desired number of Jurors.

(f) The officer who is to join the Sessions Judge.

Deputy Commissioners do now join the Judge in the preparation of the List of assessors and this may be continued. Considering however that the list of assessors is prepared in a most routine way at present, I think that some rules are necessary to guide the selecting officers in the exercise of their judgment, as to the qualifications of the Jurors.

For this purpose, I would propose that a list of men capable of serving as Jurors may be made, which will contain their property qualifications, educational attainments and in particular their knowledge of the English language, their character and their various performance in public capacity& c This list will form the bases for the list to be drawn up under the code.

(g) Other relavent points.

(1) Some rules have to be framed in re-

gard to the locking up of the Jury if a case occupies more

than a day.

(2) Payment to ~~Juries~~ Jurors will encourage Citizens to form a Jury more readily.

(3) Publication of the date , time and place of sittings in the English and Kanarese portions of the Mysore Gazette.

(4) The publication in leaflet form in Kanarese and English the duties of a Judge and Jury and other matters

(5) The reporting, officially or otherwise, of the verdict with the names of Jurors giving the verdict together with a statement of the facts of the case.

I have the honor tobe,

Sir,

Your most obedient Servant,

Public Prosecutor.

F. 81
21.7.16

Law Association Ap. D

No. 183

Encl to No. 33.

District Office Buildings
Civil Station Bangalore
21st July 1916 (VL)

From

The Secretary,

Law Association, Bangalore.

To

R. B. Plumer, Esquire,
Barrister-at-Law,
Sessions Judge, Bangalore Division,
BANGALORE.

Sir

With reference to your marginally noted reference calling for the opinion of the members of the Bar on the several points referred to in your letter under reference, I beg to state in reply that at a meeting of the Law Association held for the purpose it has been unanimously resolved to suggest as follows:-

No. 4830-33
C 289
D. 30th June 1916.

1. That the following offences may be tried by jury:-
Offences under Sections 148 & 152 of Chapter VIII I.P.C.
Offences relating to Coins &c. Chapter XII I.P.C.
Offences under Chapter XVII except that under Section 396.
Offences under Chapter XI triable only by Special Jury.

2. That about the number of persons to serve on the Jury it is considered that five may be considered sufficient owing to paucity of qualified men but the Association is not against raising the number to seven.

That about the method of choosing the Jury:-

That it be chosen by lot in the manner obtaining in the North West Provinces which practice also existed in Mysore when the system of Trial by Jury was in force.

(The rule regarding this in the North West Provinces is given on page 592 of Henderson's Criminal Procedure Code 8th Edition and runs as follows:-

"The presiding Judge shall cause to be placed together in one box cards containing the names of all the persons summoned to serve on the Jury, except such of the said persons as shall have been excused from attendance. The cards shall be as nearly as possible of the same size, and each shall bear the name of one person so summoned. The presiding Judge shall then in open Court after the box has been shaken so as to dis-arrange the cards draw or cause to be drawn out of the said box so many of the said cards, one after another, as may be required to make up the number of the Jury.")

4. As regards the area of election:-

It is suggested that this may be done from the whole district for cases arising in that District.

5. As regards the persons to be exempted under Cl. E:-

It is suggested that as the section appears to be exhaustive no further exemption seems to be necessary.

As regards the Officer joining with the Sessions Judge, it is suggested that the Deputy Commissioner of the District will join with the Sessions Judge in making the list of Jurors.

That about the qualifications of persons to be selected to serve as Jurors:-

It is suggested that persons with fairly good educational qualifications and having business experience of not less than 5 years standing with a capacity to form an independent and sound judgment and having an independent condition in life may be selected to serve as jurors.

I beg to remain,

Sir

Your most obedient servant,

Secretary

H. F. 46
14.7.16

Recd
14/7/16

Ap. E
7/7

Encl to sl 3/.

From

The Secretary
of the Law Association
Tumkur

To

R. B. Plumer Esq Bar-at-Law
Sessions judge
Bangalore Division
Bangalore City

Dated 13. 7. 1916

Sir,

With reference to your letter No 4830-33 / C 289 dated 30. 6. 1916. I have the honour to forward herewith a copy of the resolutions passed by the Law association Tumkur on 12. 7. 1916

I have the honour to be
Sir
your most obedient Servant

H. Venkatramma
Hon: Secretary
The Law association
Tumkur

Recd 14/7/16.

Shy. Ack. receipt with thanks.
Expedite replies not yet recd.
After receipt submit with
note early RBP
14/7/16

Copy of the resolutions passed in a general meeting of the Law Association Tumkur held in the Association Room on Wednesday the 12th July 1916.

Resolved as follows:-

(a) All offences for which under Chapters

VI (offences against State)
XI (false evidence and offences against public justice)
XII (offences relating to coin and Govt. Stamps)
XVI (offences affecting human body)
XVII (offences ~~affecting~~ against property)
XVIII (offences relating to documents and to trade or property marks)

of the Indian Penal Code or under any of those Chapters taken in connection with Section 75 of the Indian Penal Code, the punishment awardable is death, transportation for life or transportation or imprisonment for a period extending to ten years or upwards and also of all abetments of, or of attempts to commit any of the above mentioned offences are to be tried by jury.

Considering the small no. of extra-ordinarily intricate cases tried by the Sessions Court every year, it is not necessary to maintain a special jury list

(b) The jury may consist of five persons as in the majority of the Sessions Courts all over India. If the no. is increased it may become difficult to find the

the required no of jurors especially in the Moffusil places when there are a no of cases to be tried at one time

(c) The names of the persons summoned may be written on pieces of paper of equal size ~~and~~ which may be put in a box or cover and well mixed, and the required no of papers taken out in Court and their names entered

(d) The area of selection may at present be limited to the District Head quarter towns

(e) The exemption under clause (2) of section 320 Cr. P.C may not at present be extended to any person or ~~persons~~ class of persons not already exempted under the Code

(f) The officer who is to join the Sessions judge in the preparation of the Lists ought to be Head of the District or the Deputy Commissioner as he can be expected to know the people of the whole District in case the area is bigger than the District Head quarter towns.

In preparing lists of jurors the following qualifications may be considered viz

1 All grandates excepting those who are prohibited to serve on the jury under any of the provisions of the Cr. P.C

2 All literate persons who are not exempted under the Cr. P.Code and who have got the following property qualifications viz paying a kandayam of Rs 50 or a Moha- - thafa tax of Rs 5

3 All respectable and literate merchants

4 Government officials not exempted

under the Cr P Code + getting a pay of Rs 50 and upwards.

"True Copy"

H. Venkatamma.
Hon: Secy

The Kolar Law Association
Kolar Dated 15th July 1916

To

Sir

The Sessions Judge
Bangalore Division
Bangalore

†Submit with note
Ack. receipt with thanks
S.J. RBP
19/7/16

Sir,

With reference to your letter No. 4830-33/C289 dated 30th June 1916 requesting me to obtain and intimate to you the opinion of the members of the Kolar Bar on the points suggested in letter No: 5900-2/C536 dated 23/26th June 1916 addressed to you from the Registrar of the Chief Court of Mysore, I have the honor to submit herewith a copy of the proceedings of a Extraordinary meeting of the Kolar Bar Association held on the 13th July 1916 containing the Considered Opinion of the members of the Kolar Bar on the points suggested.

I have the honor to be,

Sir,

Your most obedient servant

Thimaiah.

Hon: Secy.

Proceedings of an Extraordinary meeting of the Kolar Law Association held on the 13th July 1916.

× × ×

I. Read Letter No: 4830-33/C289 to the Secretary, Kolar Law Association from the District & Sessions Judge, Bangalore Division and a copy of Letter No. 5900-2/C536 from the Registrar of the Chief Court of Mysore to the Sessions Judge of Bangalore Division

Resolved that the opinion of the members of the Kolar Bar on the points suggested in Letter No. 5900-2/C536 from the Registrar of the Chief Court of Mysore to the Sessions Judge Bangalore, be submitted to the District & Sessions Judge Bangalore Division

II. (a) The Offences or classes of Offences to which the System (Jury) shall apply.

Resolved

(a) that the Jury System shall apply for the trial of

(1) all Offences against property, and

(2) Offences punishable with death or transportation for life

and whether Special Jury lists are necessary.

(3) that Special Jury lists may be necessary for Bangalore and Mysore cities.

(b) the number of Jurors required to form a Jury.

(b) that the number of Jurors required to form a Jury be five, as it is the practice in the Presidencies of Madras and Bombay.

(c) the method to be adopted for choosing a Jury by lot

(c) that the Jurors be chosen by ballot from among the Jurors summoned for each case.

Sh. 3/6
Complete Record
Issue Copy of Case
v.
for disposal today
& Head this 17th
Report &
Appendix
Ord 1/16

Encl. 4p. G.

THE KOLAR GOLD FIELD MINING BOARD,
OORGAUM,
MYSORE STATE,
S. INDIA.

5th August 1916.

Dear Sir,

With reference to your letter of 2nd inst., I beg to say that the Mining Board consider it desirable that all persons employed by the Kolar Gold Field Mining Companies should be exempted from liability to serve as Jurors for the reason you yourself advance, namely, that the summoning of employees to serve on juries in Sessions Cases at Kolar Town would gravely inconvenience the work of the Mines, with the certainty at particular periods of the month, when it is at high pressure, of throwing the organisation entirely out of gear.

The Mining Board is very grateful to you for affording them an opportunity of expressing an opinion on the subject, and trusts that you will be successful in satisfying the Chief Court that exemption in our case is very necessary.

Yours truly,

Secretary.

R. B. Plumer, Esq.,
Sessions Judge,
Bangalore Division,
Bangalore.

GEN. & REV. SECRETARIAT.
TYPING Sec.
15 FEB 1917

Ch 200-16-4

Bangalore, 7th Feb 1917.

J2771

To

The Private Secretary
to H.H.the Maharaja of Mysore.

Sir,

I am directed to state that detailed proposals for introducing the scheme of trial by jury in Sessions Cases in Bangalore and Mysore, sanctioned in Govt.Proceedings No.J.4556/Cts.22-13-5 dated 17th May 1916, have been received from the Chief Court. In this connection I am to request you to kindly forward a list of persons on the Palace Establishment, who in the interests of His Highness' service should be exempted from liability to serve as jurors. The Chief Court consider that it is necessary to enumerate the exempted officers.

2. The favour of an early reply is requested.

I have, etc.,

Gl.Secy.

KNN.

No. 3424.

OFFICE OF THE PRIVATE SECRETARY
TO H. H. THE MAHARAJA OF MYSORE

Bangalore, 7th March 1917

GEN. SECRETARIAT III JUDICIAL 9 MAR 1917

DIARY No. 1964 19-19
SECTION Court
FILE No. 200-16
SERIAL No. 5

FROM

R. H. CAMPBELL, ESQ., C.I.E.,
Private Secretary to H. H. the Maharaja of Mysore.

To

D. M. Narasinga Rao, Esq., B.A., B.L.,
Secretary to the Government of Mysore,
General Department,
Bangalore.

Sir,

With reference to your letter No.J2771/Cts 200-16-4 dated 3rd Bebruary 1917 calling for a list of persons on the Palace Establishment who should be exempted from liability to serve as Jurors in Sessions cases, I am directed to invite kind reference to Government Notification No.J29 dated 4th July 1908 and to request you to kindly issue a similar order exempting all officials employed on Palace duty from liability to serve as Jurors in Sessions Cases.

Letter to Rec'd 9/3

I have the honour to be,

Sir,

Your most obedient servant,

For Private Secretary.

G.R.S. VI-71]

SUBJECT Approving of the rules framed by the Chief Court under Sections 276 & 554 of the Cr. P. Code in regard to the working of the Jury Sys...

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

, *the* 191 .

Date of issue 9th May 1917

Signed by M. G. Srinivasa Ayyangar

Section Courts

File No. 200 - 16

Serial No.

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read.— Government Proceedings No. J-4556/Cts 22-13-5 dated 17th May 1916 sanctioning the introduction of the System of trial by Jury in Sessions Cases in Bangalore & Mysore as a tentative Measure for two years & requesting the Chief Court to favour Government with detailed rules for bringing the Scheme into operation, including the draft of a Notification to be issued by Government

Order Thereon:— Not

over.

May this be

i printed?

ii treated as a standing order?

iii published in the Gazette English part?

iv translated?

v placed at the disposal of the Press?

vi published in the Gazette Kannada part?

under Section 269 of the Code of Criminal Procedure.

2. Letter R. Dis. No. 39 dated 30th Novr. 16/11th Decr. 16, forwarding, as called for, — drafts of (1) a notification bringing the System into force, (2) rules to be framed by the Chief Court under Sections 276 & 554 of the Code of Criminal Procedure & (3) rules to be issued by the Government principally relating to exemption from liability to serve on juries & payment of Jurors.

List of enclosures.

Order No. 13994 Dated 9th May (91)

Government are pleased to approve of the draft rules framed by the Chief Court under Sections 276 & 554 of the Code of Criminal

Copied by

Examined by

[G. R. S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

(2

Procedure, 1904.

2. The Notifications under Sections 269 & 320(2) of the Code of Criminal Procedure will be published Separately.

9/5/17

Secretary to Govt.
General Deptt.

To

The Registrar, Chief Court.
(With a covering letter)
No. J 3995 Dy 9th May 1917

GPB—20,000—7-7-14

Govt. of H.H. the Maharaja of Mysore.
General & Rev - Secl.
Dated Blore 9-5-17

DRAFT. 1.

No. J3996/Gs-200-16

NOTIFICATION.

GEN. & REV. SECRETARIAT. 685 TRANSL. SEC. 10 MAY 1917

Trans dated 12/5/17.

In ~~the~~ exercise of the power conferred by Sections 269 and 274 of the Code of Criminal Procedure of 1904, the Government of His Highness the Maharajah are pleased to direct that from and after the 1st day of July in the year 1917, the trial before the Courts of Session of the Bangalore and Mysore ~~Sessions Divisions~~ Districts of the offences hereunder set forth and of all abetments of and attempts to commit those offences or any of them, shall in the districts of Bangalore and Mysore be by a Jury consisting of seven persons.

The offences made punishable by Sections

379, 380, 381, 382, 384, 385, 386, 387, 388, 389, 392, 393, 394, 395, 397, 398, 399, 400, 401, 402, 411, 412, 414, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, and 462 of the Indian Penal Code.

2. The trial of these offences and of abetments and attempts to commit them shall, if the presiding Judge so directs, be by jurors summoned from a special jury list.

By order,

Secretary to Govt.
General Depttt.

To
The Compiler, Mysore Gazette,
with a request that 100 share copies of this notification may be sent to

195-
Govt. of H.H. the Maharaja of Mysore
G.R. Secretariat.
9.5.07

DRAFT III.

GEN. & REV. SECRETARIAT
686
TRANSL. SECTION
10 MAY 1911

Draft orders to be issued by the Government relating to Jury lists, expenses of Jurors, etc.

Notification No. J 3997 / Cr. 200-16-8

Under Section 320 (1) of the Code of Criminal Procedure the following persons are exempted from liability to serve as jurors:--

a. The Manager, the Chief Accountant and the Cash Keeper of the Mysore Bank.

b. All officers and subordinates of the Public Works Department, while actually in charge of the Public Works Ranges.

c. All members of the Executive Establishments of the Public Works Department.

d. The Managers of the offices of the Superintending Engineers, Public Works Department, and the Head Clerks and the Accountants of Division Offices.

e. All Railway Engineers in charge of sections of Railways open for traffic.

f. The officers of the Traffic, Locomotive and Engineering Departments in charge of districts and their assistants, Permanent Way Inspectors employed on the line, locomotive foremen and Drivers, all Station Masters and Assistant Station Masters, Telegraph Inspectors,, Telegraph Signallers and Guards of the Madras and Southern Mahratta Railway and of the Mysore State

State Railway.

g. Managers of the office of the Agent and the Engineer-in-Chief and Head Clerks and Accountants of Divisional Offices, State Railways.

h. The Assistant Commissioners in charge of the District Treasuries, District Sheristadars, Treasurers and District Court Sheristadars.

i. The Circle, District and Assistant Inspectors of Schools.

j. The Deputy Superintendent of the Revenue Survey and Settlement Department.

k. The Superintendent of the Bangalore Central Jail and of the Mysore Jail and their subordinates.

l. All Stamp vendors.

m. All Registration Officers.

n. All officers on the personal staff of H.H. the Maharaja

o. ~~The following~~ employees on the Palace establishment:—

97

EXPENSES OF JURORS.

Jurors will be paid their actual travelling expenses to and from the Court when they live outside the Municipal limits together with one rupee for every day on which they are required to appear in the Court of Sessions. Payment will be made on bills passed by the presiding Judge. Government servants will be considered to be on duty when serving as jurors, and will be paid the travelling and daily allowances prescribed by the Service Regulations.

MISCELLANEOUS.

2. Judges of Courts of Session will give due notice from time to time in the Mysore Gazette of the dates on which sessions will commence.

K. Gopalakrishnan

REGISTRAR.

By order,

Secretary to Government,
General Department.

TSK.

To The Compiler, Mysore Gazette
with a request that 150 spare copies
of this Notification may be sent
to this office.

GENERAL.

No. J. 3996—*Cts.* 200-16-7, *dated 9th May* 1917.

In exercise of the power conferred by Sections 269 and 274 of the Code of Criminal Procedure of 1904, the Government of His Highness the Maharaja are pleased to direct that from and after the 1st day of July in the year 1917, the trial before the Courts of Session of the Bangalore and Mysore Sessions Divisions, of the offences hereunder set forth and of all abetments of and attempts to commit those offences or any of them, shall in the districts of Bangalore and Mysore be by a Jury consisting of seven persons.

The offences made punishable by Sections, 379, 380, 381, 382, 384, 385, 386, 387, 388, 389, 392, 393, 394, 395, 397, 398, 399, 400, 401, 402, 411, 412, 414, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461 and 462 of the Indian Penal Code.

2. The trial of these offences and of abetments and attempts to commit them shall, if the presiding Judge so directs, be by jurors summoned from a special jury list.

By Order,
D. M. NARASINGA RAO,
Secretary to Government,
General Department.

(99

GENERAL.

No. J. 3997—*Cts.* 200-16-8, *dated 9th May* 1917.

Under Section 320 (*l*) of the Code of Criminal Procedure, the following persons are exempted from liability to serve as jurors:—

(*a*) The Manager, the Chief Accountant and the Cash Keeper of the Mysore Bank.

(*b*) All officers and subordinates of the Public Works Department, while actually in charge of the Public Works Ranges.

(*c*) All members of the executive establishments of the Public Works Department.

(*d*) The Managers of the offices of the Superintending Engineers, Public Works Department, and the Head Clerks and the Accountants of Division Offices.

(*e*) All Railway Engineers in charge of sections of Railways open for traffic.

(*f*) The officers of the Traffic, Locomotive and Engineering Departments in charge of districts and their assistants, Permanent Way Inspectors employed on the line, Locomotive Foremen and Drivers, all Station Masters and Assistant Station Masters, Telegraph Inspectors, Telegraph Signallers and Guards of the Madras and Southern Mahratta Railway and of the Mysore State Railway.

(*g*) Managers of the office of the Agent and the Engineer-in-Chief and Head Clerks and Accountants of Divisional Offices, State Railways.

(*h*) The Assistant Commissioners in charge of the District Treasuries, District Sheristadars, Treasurers and District Court Sheristadars.

(*i*) The Circle, District and Assistant Inspectors of Schools.

(*j*) The Deputy Superintendent of the Revenue Survey and Settlement Department

(*k*) The Superintendent of the Bangalore Central Jail and of the Mysore Jail and their subordinates.

(*l*) All Stamp Vendors.

(*m*) All Registration Officers.

(*n*) All officers on the personal staff of His Highness the Maharaja.

(*o*) All employees on the Palace establishment.

2. Judges of Courts of Secession will give due notice from time to time in the *Mysore Gazette*, of the dates on which sessions will commence.

By Order,
D. M. NARASINGA RAO,
Secretary to Government,
General Department.